



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

**ADVANCE COPY BY FACSIMILE**

**APR 20 2007**

Stephen Hershkowitz, Esq.  
Sandler, Reiff & Young, P.C.  
50 E Street, S.E., Suite 300  
Washington, DC 20003

**RE: MUR 5702**  
**Colorado Democratic Party and**  
**Mark Ferrandino, in his official**  
**capacity as treasurer**

**Dear Mr. Hershkowitz:**

On April 6, 2007, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of violations of 2 U.S.C. § 434(b)(1), (2), (4) and (8) and 2 U.S.C. § 441(b), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and 11 C.F.R. §§ 102.5(a), 104.10(b) and 106.5(a), regulations promulgated pursuant to the Act. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondents and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Your clients have already paid \$50,000 of the civil penalty of \$105,000. Please note that a payment of \$11,000 of the civil penalty is due within 30 days of the conciliation agreement's effective date. Thereafter, your clients must make four consecutive monthly installment payments of \$11,000 each. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

*Delbert K. Rigsby*  
Delbert K. Rigsby  
Attorney

Enclosure  
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Colorado Democratic Party and )  
Mark Ferrandino, in his official capacity as treasurer )

MUR 5702

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2001 APR - 3 P 04

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

Based on a Commission audit of the Colorado Democratic Party ("the Committee") covering the period January 1, 2001 through December 31, 2002, the Commission found reason to believe the Colorado Democratic Party and its treasurer violated 2 U.S.C. §§ 434(b)(1), (2), (4) and (8) and 441b and 11 C.F.R. §§ 102.5(a), 104.10(b)(4) and 106.5(a).<sup>1</sup>

NOW THEREFORE, the Commission and the Colorado Democratic Party and Mark Ferrandino, in his official capacity as treasurer (together "Respondents"), having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

<sup>1</sup> Other than activity that was misreported in the Committee's 2002 Year-End Report, filed in 2003, the activity in this matter is governed by the Federal Election Campaign Act of 1971, as amended, ("the Act") and the regulations in effect during the pertinent time period, which preceded the effective date of amendments to the Act contained in the Bipartisan Campaign Reform Act of 2002 ("BCRA")

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III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Committee is a political committee within the meaning of 2 U.S.C. § 431(4), and is not the authorized committee of any candidate.

2. Mark Ferrandino is the treasurer of the Committee and is a respondent in this matter only in his official capacity as treasurer.

3. Each treasurer of a political committee is required to file reports of receipts and disbursements in accordance with 2 U.S.C. § 434(a). Each report shall disclose the amount of cash on hand at the beginning and end of the reporting period, the total amount of receipts for the reporting period and for the calendar year, the total amount of disbursements for the reporting period and for the calendar year, and the total amount of debt. 2 U.S.C. §§ 434(b)(1), (2), (4) and (8).

4. A state party committee, such as the Committee, that has established separate federal and non-federal accounts must pay the entire amount of an allocable expense from its federal account and then transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense. 11 C.F.R. §§ 102.5(a), 106.5(a) and 106.5(g)(1)(i).

5. A political committee that allocates shared federal and non-federal expenses must report each disbursement it makes from its federal account for joint federal and non-federal activity. 11 C.F.R. § 104.10(b)(4).

6. The Act prohibits a corporation from making contributions, directly or indirectly, in connection with any Federal election, and prohibits political committees from knowingly accepting or receiving such contributions. 2 U.S.C. § 441b(a).

7. The Committee failed to properly report its financial activity in 2001 and 2002. In 2001, the Committee overstated its opening cash balance by \$279,988, understated its receipts by a net amount of \$119,348, and understated its disbursements by a net amount of \$20,764. As a net result of these misstatements, the Committee overstated its 2001 closing cash on hand by \$181,404.

8. In 2002, because of 2001's misstatements and an unsupported change in the 2002 opening cash on hand balance as compared to the 2001 closing cash on hand, the Committee's 2002 opening cash balance was overstated by \$238,622. Additionally, the Committee understated its 2002 receipts by a net total of \$980,580, and understated disbursements by a net amount of \$928,318. As a net result of these misstatements, the Committee overstated its 2002 closing cash on hand by \$186,360.

9. The Committee accepted a \$10,000 prohibited contribution from the non-federal account of New Democratic Network, a non-connected political committee.

10. The Committee established separate federal and non-federal accounts but failed to properly allocate expenses between the accounts resulting in the non-federal account overpaying its share of allocable expenses by \$8,888 in 2001.

11. Following the interim audit report, the Committee complied with the recommendations of the Commission's Audit Division and amended its disclosure reports to materially correct the aforementioned misstatements of its financial activities.

12. Following the interim audit report, the Committee complied with the recommendations of the Commission's Audit Division and refunded the prohibited contribution of \$10,000 from the non-connected political committee.

13. The Committee contends that the errors and omissions in its 2001 and 2002 reports were not intentional. Further, the Committee has taken steps to ensure that such errors and omissions do not occur again by retaining a compliance company with significant experience in state party financial compliance, as well as federal campaign finance counsel that serves as counsel to several Democratic state party committees.

V. 1. Respondents violated 2 U.S.C. § 434(b)(1), (2), (4) and (8) and 11 C.F.R. § 104.10(b) by failing to properly report their receipts, disbursements, cash on hand, allocable expenses and outstanding debt and obligations.

2. Respondents violated 2 U.S.C. § 441b's prohibition on accepting prohibited contributions.

3. Respondents violated 11 C.F.R. §§ 102.5(a) and 106.5(a) by failing to properly pay for shared federal and non-federal disbursements.

4. Respondents will cease and desist from violating 2 U.S.C. §§ 434(b)(1), (2), (4) and (8), 441b and 11 C.F.R. §§ 102.5(a), 104.10(b)(4) and 106.5(a).

VI. Respondents will take the following actions:

1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of One Hundred and Five Thousand dollars (\$105,000), pursuant to 2 U.S.C. § 437g(a)(5)(A). Respondents have already paid \$50,000. The remaining amount of the civil penalty will be paid as follows:

A. A payment of Eleven Thousand dollars is due no more than thirty (30) days from the date this Agreement becomes effective;

B. Thereafter, four consecutive monthly installment payments of Eleven Thousand (\$11,000) each;

C. Each such installment shall be paid within 30 days of the previous installment;

D. In the event that any installment payment is not received by the Commission by the fifth day after it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten days written notice to the Respondents. Failure by the Commission to accelerate the payments with regard to any overdue installment shall not be construed as a waiver of its right to do so with regard to further overdue installments.

2. Respondents will transfer \$8,888 from their federal account to their non-federal account.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

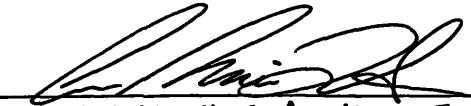
IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:


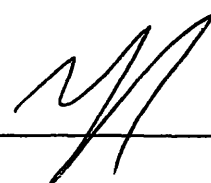
Thomaseia P. Duncan  
Acting General Counsel

BY:

  
Rhonda J. Vosdinger Ann Marie Terzaken  
Acting Associate General Counsel  
for Enforcement

4/19/07  
Date

FOR THE RESPONDENTS:

  
  
Neil Reiff  
Council

3/29/07  
Date

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